

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William Rasenberger	Team: Squad #7	CCRB Case #: 202003800	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 9:28 PM	Location of Incident: Flatbush Avenue and Church Avenue; Bedford and Church Avenue	Precinct: 70	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 06/02/2020 9:52 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 06/02/2020 9:52 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer used physical force against § 87(2)(b)	
B. An officer	Force: An officer used physical force against § 87(2)(b)	
C. An officer	Off. Language: An officer made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	

Case Summary

On June 2nd, 2020, the CCRB received the following complaint from § 87(2)(b) via the call processing system (ref. no. 3001572579) [BR 01]. § 87(2)(b) filed a duplicate complaint via the CCRB website on June 8th, 2020 [BR02].

On May 30th, 2020, § 87(2)(b) and her cousin, § 87(2)(b) and § 87(2)(b) participated in a George Floyd/Black Lives Matter protest in Flatbush, Brooklyn. At approximately 9:27 p.m., § 87(2)(b) was picking up her phone from the ground at the corner of Bedford and Church Avenues when an officer allegedly kicked her in the face (**Allegation A: Force**, § 87(2)(g)). At approximately 10:30 p.m., at the corner of Flatbush Avenue and Church Avenue, an officer allegedly pushed § 87(2)(b) three times (**Allegation B: Force**, § 87(2)(g)) and called § 87(2)(b) a “bitch” (**Allegation C: Offensive Language – Gender**, § 87(2)(g)).

Although the CCRB has received multiple body-worn camera videos and other footage capturing events at the approximate time and place of the incidents in this case, the CCRB does not possess footage of either incident.

Allegation A: An officer used physical force against § 87(2)(b)

Known facts and general descriptions

§ 87(2)(b) was interviewed over the telephone on June 8th 2020 [BR 03]. § 87(2)(b) stated that at 9:27 p.m. on May 30th, 2020, she was recording a protest at the intersection of Bedford and Church avenues in Brooklyn. (She determined the time by viewing the start time of the video that she recorded immediately before the incident.) § 87(2)(b) dropped her phone on the road. She bent down to pick it up, and was kicked in the face by a black boot. § 87(2)(b) believes that she was kicked by an officer, but she never saw the officer, and was therefore unable to provide a physical description. § 87(2)(b) was not with anyone else who could serve as a witness. § 87(2)(b) provided a cellphone video [BR 04] that she recorded immediately before dropping her phone, but the video does not capture any police misconduct. The CCRB is not in possession of any other footage that captures § 87(2)(b) or the incident.

Body-worn camera (and other) footage

The undersigned reviewed all footage possessed by the CCRB recorded near the time and place of occurrence. This footage included all relevant BWC and TARU footage received by the CCRB, including ten BWC videos received for case 202003841, eight BWC videos received for case 202004474, seventeen BWC videos received for case 202006547, TARU fixed-camera footage received for case 202004474, and TARU handheld footage attached to IA # 113 in case 202003799. All three requests for BWC footage made for this case were rejected [BR 11]. In the receipt for the final request, the comments noted that a search was conducted for footage recorded between 2030 and 2330 hours by MOS from the 60th, 67th, 70th, and 75th Precincts, SRG, ESU, CRC, Narcotics Units, and other unlisted commands. BWC footage existed, the comments further noted, but none of the footage captured § 87(2)(b) or the incident, as described in the request. The undersigned also reviewed footage provided by civilians for other cases -- including eight videos received from § 87(2)(b) for case 202004474 -- as well as multiple YouTube videos of the protest at Bedford and Church Avenues uploaded on the § 87(2)(b) [BR 06]. Of all this footage, Captain James Hepworth's BWC footage [BR 07] which

begins at 9:26 p.m., was recorded closest in time to the alleged incident. However, this footage does not capture § 87(2)(b) or any police misconduct.

NYPD documents reviewed

There are no summonses or arrest reports related to this incident. The Patrol Borough Brooklyn South (PBBS) detail rosters [BR 05] list about 24 officers from the 67th and 70th Precinct. Footage of the incident, however, shows that there were at least one hundred officers and multiple commands on scene. There is no reason to believe that the subject officer is from the 67th or 70th Precinct. Furthermore, the detail rosters generally do not specify officers' exact posts, making it impossible to determine which officers were in § 87(2)(b)'s vicinity during the incident.

Concurrent Investigations

Sgt. Desiano of the Department Advocate's Office confirmed that there are no concurrent investigations involving § 87(2)(b) [BR 12].

Ranking Officer

It is believed that Deputy Chief Charles McEvoy was the ranking officer at the George Floyd/Black Lives Matter protests in the vicinity of Bedford and Church avenues in Brooklyn. Lt. Michael Butler was interviewed for case 202003799, which regards an incident that occurred at approximately the same time and place as the incident in this case. Lt. Butler stated during this interview that DC McEvoy was the ranking officer on-scene [BR 13].

Officer Interviews

The CCRB has not interviewed Deputy Chief McEvoy or any other officers regarding the incident because it is unknown where exactly officers were positioned during the incident, there is no video surrounding this incident, and no officer descriptions.

Allegation Recitation and Disposition

§ 87(2)(b) alleged that she was kicked in the face by a possible officer, while she was recording a protest at the intersection of Bedford and Church in Brooklyn. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation B: An officer used physical force against § 87(2)(b)

Allegation C: An officer made offensive remarks to § 87(2)(b) on the basis of § 87(2)(b)'s gender

On June 8th, 2020, § 87(2)(b) decided to withdraw her complaint, § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) affirmed that she was withdrawing her complaint of her own free will, and that she had not been coerced to do so by the NYPD or the CCRB. § 87(2)(b)'s withdrawal is captured at 2:23 minutes in the audio recording

attached to IA # 34 [BR 08]. IM Rosen has reviewed this recording and confirmed that it adhered to agency standards.

§ 87(2)(b)'s cousin, § 87(2)(b) also stated that she did not wish to be involved in the complaint.

IM Rosen has reviewed both recordings. § 87(2)(b) signed and submitted a withdrawal letter, which has been added to the case file [BR 09].

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) or § 87(2)(b) have been parties.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- According to the New York City Office of Court Administration, § 87(2)(b) has never been convicted of a crime in New York City [BR 10].
- On November 6th, 2020, a request was sent to the NYC Comptroller's Office for any notices of claim associated with § 87(2)(b) or § 87(2)(b). The results will be added to the case file upon receipt [BR 14].

Squad No.: 7

Investigator:	<u>Will Rasenberger</u>	<u>Investigator Rasenberger</u>	<u>11/6/2020</u>
	Signature	Print Title & Name	Date
		Manager Vanessa Rosen	11/9/2020
Squad Leader:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date
Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date

